

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

TRANS-SPEC TRUCK SERVICE, INC.)
d/b/a TRUCK SERVICE,)
Plaintiff)
vs.) CIVIL ACTION NO. 04-11836-RCL
CATERPILLAR INC.)
Defendant)

CATERPILLAR INC.'S REQUEST FOR LEAVE TO FILE REPLY MEMORANDUM
IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT ON ALL
REMAINING CLAIMS

The defendant Caterpillar Inc. requests leave pursuant to Local Rule 7.1(B)(3) to submit the attached Reply Memorandum in Support of its Motion for Summary Judgment on all Remaining Claims. The motion for summary judgment is set for hearing on May 31 at 2:00 PM before Judge Alexander.

The plaintiff Trans-Spec's Opposition to Caterpillar's motion raises several arguments which were not reasonably foreseeable when Caterpillar prepared its original memorandum. Some of the arguments were not foreseeable because they are based on clearly incorrect understanding of the law, which Caterpillar had no way to predict. Others were not foreseeable because there is no record evidence to support them, and Caterpillar could not predict that arguments not foreshadowed by known evidence would be advanced. Finally, some were not foreseeable because they do not pertain to any claim articulated in the pleadings. Caterpillar believes the May 31 hearing will be substantially expedited, and the Court's consideration of the

issues made easier, if it is given an opportunity to address in writing the unforeseeable arguments contained in Trans-Spec's Opposition.

CATERPILLAR INC.,

By its attorneys,

CAMPBELL CAMPBELL EDWARDS
& CONROY, P.C.

John A.K. Grunert (BBO: 213820)
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CERTIFICATE OF SERVICE

I, John A.K. Grunert, hereby certify that on May 18, 2006, I served the within request by causing a copy to be transmitted electronically to Christian Samito, Esquire, Donovan Hatem LLP, Two Seaport Lane, Boston, MA 02210.

John A.K. Grunert